

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

INLAND CORPORATION, et al.,

Plaintiffs,

:

Case No. 3:14-cv-328

- vs -

District Judge Walter Herbert Rice

Magistrate Judge Michael R. Merz

T.E.P., LLC, et al.,

Defendants.

:

---

**DECISION AND ORDER DENYING EXTENSION OF TIME;  
REPORT AND RECOMMENDATIONS**

---

This case is before the Court on Defendant Thomas Payne's Request for a 45-day extension of time to obtain legal counsel of choice (Doc. No. 5).

On October 10, 2014, District Judge Rice denied Mr. Payne's Motion for Leave to Proceed *in forma pauperis* (Doc. No. 4). Judge Rice gave Mr. Payne two options: (1) pay the filing fee or (2) dismiss the case. *Id.* at PageID 146-47. Instead of exercising either one of those options, Mr. Payne filed the instant Request.

In part, but in a way not understandable to the undersigned, Mr. Payne's Request is based on an Order entered by Judge Frances McGee in the Common Pleas case on October 7, 2014, striking Mr. Payne's most recent filings in that case. Judge McGee's Order does not, however, make this case any more removable than it was before.

Mr. Payne's Request is DENIED. Clearly he does not need legal advice on the question of the filing fee and if he can obtain the services of counsel of his choice, he plainly is not entitled to proceed *in forma pauperis*. If some attorney provides a theory of removability which the attorney believes is sufficiently viable to avoid sanctions under Fed. R. Civ. P. 11, re-filing for removal is always possible. The Magistrate Judge continues to believe any attempt to remove is grossly untimely, but if the Magistrate Judge is wrong about that, another forty-five days will not make any difference.

Mr. Payne has NOT effectively removed this case from the Common Pleas Court. Because his motion to proceed *in forma pauperis* has been denied and he has failed to pay the removal filing fee within the time allowed by Judge Rice, this case should be dismissed without prejudice.

October 21, 2014.

s/ ***Michael R. Merz***  
United States Magistrate Judge